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Report to the Chairman, Legislation and National Security Subcommittee, Committee on Government Operations, House of Representatives

March 1987

# PROCUREMENT

# State Department's Purchase of Silverware for Overseas Missions

ORIGINAL

GAO/NSIAD-87-47

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United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

E R R A T A

On page 3, table 3, of PROCUREMENT: State Department's Purchase of Silverware for Overseas Missions (GAO/NSIAD-87-47), dated March 10, 1987, the total under heading "No. of pieces purchased" should be 72,492.

Joan M. McCabe
Associate Director

CAD

GAO

United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division
B-225173

March 10, 1987

The Honorable Jack Brooks
Chairman, Legislation and National
Security Subcommittee
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

In response to your letter of May 27, 1986, we examined the Department of State's procurement of silverware for its overseas diplomatic missions. Our examination focused on the (1) Department's silverware needs, (2) procurement procedures followed, and (3) controls over the current inventory.

Our review disclosed a number of problems in the management of the program, which is carried out by the Department's Office of Foreign Buildings Operations (FBO). Specifically, we found that FBO's records and its inventory controls at the contractor's plant and at overseas posts were inadequate and that the Department was not following its regulations regarding the disposal of silverware. In addition, FBO is about midway through a program to standardize its silverware pattern worldwide, but a contract dispute caused by poor contracting practices may prevent FBO from achieving its objectives.

## Background

Prior to 1979, FBO purchased four different patterns of silverware for eligible overseas diplomatic residences. When the supplier went out of business, FBO tried to obtain ownership of the tools and dies so that it could continue to acquire the patterns, but was unsuccessful. FBO then decided that, rather than continue to maintain different patterns, it would replace over time all silverware with one standard pattern. FBO estimated that the standardization program would require purchases of over 156,000 pieces of silverware. At the time we completed our work, FBO had purchased over 72,000 pieces for over $2 million. Funds for the procurement of silverware are obtained through the Department's Acquisition and Maintenance of Buildings Account—the same account that funds the construction, furnishing, and maintenance of various embassy facilities overseas.

## Determining Silverware Requirements

FBO computed the number of pieces required for the standardization program based on the number of place settings authorized for each overseas residence by the Foreign Affairs Manual. Residences eligible for silverware are those of the Ambassador, Deputy Chief of Mission, Consul General, and certain other officials. This resulted in the following total requirement.

**Table 1: Computation of Silverware Requirement**

| Number of residences | | Place settings (pieces) allowed per residence | Total pieces required |
|---|---|---|---|
| 141 | Ambassador | 30 (483) | 68,103 |
| 141 | Deputy Chief of Mission | 24 (387) | 54,567 |
| 75 | Consul General | 18 (289) | 21,675 |
| 34 | Consulate Residences | 12 (191) | 6,494 |
| 11 | Special Ambassador | 30 (483) | 5,313 |
| 1 | U.S. Interest (Cuba) | 12 (191) | 191 |
| **Total requirement** | | | **156,343** |

## Procedures Used to Contract for Silverware

FBO conducted a negotiated procurement for its silverware requirement. In February 1979, FBO solicited offers from 11 firms for manufacturing 300 place settings of a pattern to be called "Embassy Scroll." From the solicitation FBO received four offers, as shown in table 2.

**Table 2: Companies Submitting Offers on 1979 Contract**

| Firm | Offer |
|---|---|
| Towle Silversmith Company | $210,090 |
| Lunt Silversmith Company | 192,020 |
| Reed Barton Company | 187,546 |
| International Silversmith Company | 152,780 |

The two low offers were rejected because the patterns offered were unacceptable. The two remaining companies—Towle Silversmith and Lunt Silversmith—were asked to submit best and final offers. Towle's offer was $199,069 and Lunt's was $190,100. The contract was awarded to Lunt Silversmith Company of Greenfield, Massachusetts. On April 1, 1979, FBO entered into a 6-year contract, renewable each year with certain escalation provisions. The contract was subsequently extended for 15 months and expired on June 30, 1986.

## Procurements From Lunt Silversmith

From 1979 to 1986, FBO purchased over 72,000 pieces of silverware—about one half its total requirement. The largest dollar value of purchases in any given year was made in fiscal year 1980 when 30,360 pieces were purchased for $1,158,726. No purchases were made in fiscal years 1981 and 1982 because silver prices were so high. The dates and amounts of the individual purchases are shown in table 3.

**Table 3: Silverware Procurements, 1979-86**

| Fiscal year | Contract date | Contract amount | Silver cost per oz. | No. of pieces purchased |
|---|---|---|---|---|
| 1979 | 4–1–79 | $190,100 | $7.53 | 7,950 |
| 1980 | 11–13–79 | 609,960 | 16.16 | 20,160 |
| | 1–30–80 | 548,766 | 8.84 | 10,200 |
| 1983 | 6–24–83 | 523,807 | 13.32 | 20,626 |
| 1984 | 9–11–84 | 124,917 | 7.24 | 5,845 |
| 1985 | 9–23–85 | 157,877 | 6.25 | 7,345 |
| 1986 | 5–29–86 | 7,528 | 5.25 | 366 |
| **Total** | | **$2,162,955** | | **72,026** |

The last purchase under the contract with Lunt Silversmith was made on May 29, 1986. FBO had planned to resolicit bids for a new contract in September 1986 for additional purchases. However, as of February 1987, it had not done so because of a dispute over ownership of the tools and dies for the Embassy Scroll pattern.

## Problems in FBO's Management of the Silverware Program

Our work disclosed several problems in FBO's management of the silverware program. These problems include (1) violation of the applicable procurement regulation in the initial award to Lunt, resulting in contract provisions that do not ensure ownership of tools and dies needed to provide continuity in manufacturing the standard pattern; (2) inadequate controls over inventories held by the contractor and at overseas posts; and (3) failure to follow regulations regarding the disposal of silverware that had been replaced by the standard pattern.

## Ownership of Tools and Dies

A principal objective of the standardization program was to obtain ownership of the tools and dies used to manufacture the standard pattern so that FBO could continue to purchase replacement pieces. After the initial contract was completed, FBO had planned to take possession of the tools and dies and furnish them to subsequent successful offerors so that continuation of the identical standard pattern could be ensured. The

Department's Procurement Executive estimated that the tools and dies in question were worth $50,000 to $60,000 in 1979 and about $100,000 currently.

To secure ownership of the tools and dies for the government, the following clause was inserted into the initial solicitation that was sent to all prospective offerors:

"To insure continuity of the pattern, offerors shall either:

"(1) Enter below the cost to the Government for purchase of dies and tooling used; or

"(2) Enter a statement that if the contract is terminated or production of the pattern is discontinued that the title to the dies and tooling will be transferred to the Government at no cost. Total cost $.00."

Lunt Silversmith elected to enter the following statement in its proposal:

"Lunt Silversmith is prepared to absorb the entire cost of tools and dies for producing 'Embassy Scroll' and, if for any reason Lunt Silversmith should permanently discontinue production of the 'Embassy Scroll' pattern, all dies and tools for that pattern will be made available to the United States Department of State at no charge so that they may be assured of continuity of pattern production from a different manufacturer."

It is clear that the language of Lunt's proposal differed materially from the solicitation language. Required either to state the cost to the government for purchase of the tooling, or to agree to turn over the tooling if the contract is terminated or production of the pattern discontinued, Lunt offered to make the tooling available only in the event that it should permanently discontinue production of the pattern.

Fundamental to achieving full and open competition in government procurement, as required by the Competition in Contracting Act of 1984, 41 U.S.C. §253(a), is the principle that any proposal failing to conform to material terms of the solicitation is unacceptable and should not form the basis for an award. For this reason, the Federal Acquisition Regulation and its predecessor authority applicable to the 1979 procurement (Federal Procurement Regulation, 41 C.F.R. 31-3.805-1(d)(1978)) prohibit an agency from accepting a proposal that is inconsistent with requirements of the solicitation without giving all offerors an opportunity to compete on the same basis (48 C.F.R. 15.606(c) (1986)).

In view of the deficiency in Lunt's proposal, the Department of State violated the then applicable Federal Procurement Regulation by making an award to the firm without discussing the matter with Lunt and receiving a revised proposal complying with the solicitation. The alternative approach under the regulation, revising the solicitation to be consistent with Lunt's offer so that all offerors could compete on the same basis, would only have been available if the Department had changed its objective of obtaining ownership of the tools and dies as initially proposed. Instead of conducting discussions, the Department of State advised Lunt that its proposal was "technically responsive" and, on April 1, 1979, awarded a contract to the firm based upon its initial proposal. This violation of the applicable procurement regulation is directly responsible for the current dispute over ownership of tools and dies for the "Embassy Scroll" pattern.

The FBO Director, the Chief of the Interior Design Branch (which has responsibility of the silverware program), and the manager of the silverware program have advised us that they firmly believe that FBO owns the tools and dies and that they should be transferred to the government immediately. At the same time, the President of Lunt Silversmith has advised us that the specific terms of the contract give ownership of the tools and dies for the Embassy Scroll pattern to his company for the foreseeable future. He also stated that since the Embassy Scroll pattern is also manufactured for commercial customers, it is not likely that his firm will discontinue the pattern so that title to the tools and dies will have to be transferred to the government at no cost. Lunt advised FBO of this position in August 1986. As of February 1987, FBO has had no further communication with Lunt concerning ownership of the tools and dies.

If FBO is not successful in obtaining transfer of the tools and dies from Lunt Silversmith, it may have to choose among several options: (1) entering into successor sole-source procurement with Lunt Silversmith in order to continue purchasing the Embassy Scroll pattern, (2) resoliciting its entire silverware standardization requirement, or (3) abandoning the standardization program altogether.

At the time we completed our work, FBO officials were holding the follow-on contract in abeyance and considering the available alternatives. FBO officials told us that they planned to continue procurement of silverware as soon as the dispute concerning ownership of tools and dies for the Embassy Scroll pattern was resolved.

## Controls Over Silverware Inventory

FBO's records of inventories taken at overseas posts and at the contractor's plant are inaccurate and outdated. In addition, physical inventories are not taken annually and reconciled with accounting records as required.

FBO regulations require an annual inventory and evaluation of the condition of silverware to be reported by each overseas post. In our review of FBO's records, however, we found that many reports were several years old and did not reflect shipments of replacement pieces to the posts. In addition, as described below, we found that through the standardization program and local purchases, posts have accumulated considerable quantities in excess of their authorizations without FBO's knowledge.

FBO records of the inventory at the contractor's plant are considered the official records, and according to FBO guidelines, all inventories are to be reconciled to the FBO records. We visited the contractor's plant in September 1986 and inventoried the silverware held for the Department. FBO's inventory records differed significantly from the contractor's records and the quantity on hand. FBO's records showed 1,118 pieces whereas the contractor's records and the actual quantities in inventory showed 2,254, or more than double that amount. FBO officials informed us that the differences could be due to in-transit orders; however, they were unable to provide a reconciliation of the items. The last physical inventory that FBO conducted at the contractor's plant was in 1981, even though regulations require annual inventories. At the time of the inventory, FBO's records showed less than the contractor's records. FBO's records were adjusted to the contractor's balances at that time because a reconciliation could not be made.

## Disposal of Silverware Replaced With Standard Pattern

FBO instructed overseas posts to dispose of existing silverware when the Embassy Scroll was received. According to the instructions the posts were to (1) sell the old pattern as excess property, (2) sell it to staff at posts at a discount, or (3) return it to FBO for disposal or meltdown. Proceeds from sales were to be deposited in the excess property account, and notification concerning the sale and the deposit were to be forwarded to FBO.

We found that missions have not adhered to these instructions. While at several overseas missions on other assignments, we briefly examined their flatware inventories. Missions in Bangkok, Rangoon, Dhaka, Kuala Lumpur, and Hong Kong had kept the old pattern when the new pattern was received and consequently had twice the authorized allowance. In

addition, we found that in Bangkok, the Ambassador authorized the purchase of an additional 2,570 pieces to increase the post inventory to 300 place settings. The cost of the additional pieces was estimated at about $47,000.

## Conclusions and Recommendations

The dispute between FBO and the contractor over the ownership of the tools and dies may prevent the Department from achieving its standardization objective. The dispute could have been avoided had FBO adhered to the applicable procurement regulation and sound contracting practices.

FBO's management of its silverware program has also been inadequate in other areas. FBO needs to improve its internal controls and enforce established procedures concerning physical inventories, reconciliations, reporting, and authorized allowances.

We recommend that the Secretary of State direct the Director of FBO to

- require future contracts, if any, for silverware procurement to clearly provide for FBO ownership of the tools and dies necessary to maintain the standard pattern;
- comply with the Department's policies and regulations concerning (1) taking, reconciling, and reporting inventories at overseas posts and contractors' plants and (2) authorized allowances; and
- suspend further purchases of silverware until the present dispute is resolved and use the excess quantities of silverware that posts have accumulated above authorized levels to meet replacement needs.

Our review was conducted at the Department of State during the period June to November 1986. We also visited the contractor's plant in Greenfield, Massachusetts, and performed limited fieldwork overseas. We held discussions with State and contractor officials involved in the procurement and management of the Department's silverware replacement program. We reviewed records relating to the program at the Department and at the contractor's plant. Our review was conducted in accordance with generally accepted government auditing standards. As requested, we did not ask the Department of State to officially comment on this report.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from

the date of the report. At that time we will send copies to the Secretary of State and other interested parties and make copies available to others upon request.

Sincerely yours,

Frank C Conahan

Frank C. Conahan
Assistant Comptroller General

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